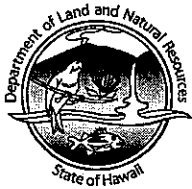


NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
WILLIAM J. AILA, JR
Chairperson**

**Before the House Committee on
AGRICULTURE**

**Wednesday, March 21, 2012
9:00 AM
State Capitol, Conference Room 312**

**In consideration of
SENATE BILL 3011, SENATE DRAFT 2, HOUSE DRAFT 1
RELATING TO PUBLIC LANDS**

Senate Bill 3011, Senate Draft 2, House Draft 1 proposes to direct the Department of Agriculture (DOA) to transfer the parcels of agricultural land designated in the bill to the Agribusiness Development Corporation (ADC). The Department of Land and Natural Resources (DLNR) has concerns with the current version of the bill, and offers the following comments.

The Board of Land and Natural Resources (BLNR) and the Board of Agriculture (BOA) have already approved the set-aside of these lands for agricultural purposes to the DOA by executive order pursuant to Act 90 of the Session Laws of the State of Hawaii, 2003. By Executive Order No. 4403 signed by the Governor on February 20, 2012, the lands designated in the bill were transferred to DOA and are now under their management and control pursuant to Section 171-11, Hawaii Revised Statutes (HRS). Under Section 171-11, HRS, DOA does not have the authority to transfer the fee title to lands to another agency or attached corporation. However, DOA could, with prior BLNR approval, enter into a lease of the lands to ADC.

Alternatively, at the request of the BOA and the Board of Directors of ADC, the BLNR could cancel the recently-issued Executive Order No. 4403 and reset-aside the all of the lands directly to ADC, or reset-aside part of the lands to ADC and the other part to DOA, by replacement executive order(s). This alternative would be more in line with inter-agency land dispositions under Section 171-11, HRS.

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

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AQUATIC RESOURCES
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATES PARKS



SB3011 SD2 HD1
RELATING TO PUBLIC LANDS
House Committee on Agriculture

March 21, 2012

9:00 a.m.

Room 312

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB3011 SD2 HD1, which would require the Department of Agriculture to transfer title to public agricultural lands under its jurisdiction to the Agribusiness Development Corporation.

The Agribusiness Development Corporation was created as a rapid-response agency to stabilize deteriorating plantation water systems and transition vacant plantation lands to use for diversified agriculture. It enjoys broad exemptions from existing processes when disposing of and developing upon land. Specifically, it is not subject to HRS 171-64.7, which requires a 2/3 majority vote of the legislature to sell certain public lands and requires OHA be notified of such land disposals.

HRS 171-64.7 was enacted as a result of a ceded lands settlement between the state and OHA to ensure that Public Land Trust lands for which OHA is entitled a pro rata portion of revenues would not be diminished without the opportunity for public comment, the legislature's approval, and the notification of OHA. Removing agricultural lands from the purview of this law would circumvent the system created to ensure state accountability for public trust lands while diminishing a source from which OHA is constitutionally entitled to a pro rata portion. In short, this bill would effectively controvert the state's trust obligation to Native Hawaiians.

Therefore, OHA urges the committee to HOLD SB3011 SD2 HD1. Mahalo for the opportunity to testify on this important measure.